

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**DYLAN BURGESS, individually and on
behalf of all others similarly situated,
*Plaintiff,***

v.

**RAB, INC.,
*Defendant.***

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Case No. 3:23-cv-02845-L

DEFENDANT RAB, INC.'S MOTION TO DISMISS

COMES NOW, Defendant RAB, Inc. (“Defendant”) and files this Motion to Dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) as follows:

I.

1. Plaintiff filed suit against Defendant on December 22, 2023, alleging violations of the Fair Debt Collection Practices Act, 15 U.S.C. § 1692 *et seq.* (the “FDCPA”). Doc. 1. Plaintiff alleges Defendant violated sections 1692c, 1692e, and 1692g of the FDCPA in its communications with Plaintiff and others. *Id.* at 10-11.

2. “Only financial obligations incurred for purchases ‘primarily for personal, family, or household purposes’ qualify as consumer ‘debt’ subject to the rules and regulations of the FDCPA.” *Garcia v. Jenkins Babb, L.L.P.*, 569 F. App’x 274, 275 (5th Cir. 2014) (per curiam) (quoting 15 U.S.C. § 1692a(5)).

3. The debt at issue in this matter is a commercial debt, which Plaintiff warranted would be used for business purposes only.

4. Therefore, Plaintiff has failed to state a claim upon which relief can be granted, as the FDCPA categorically does not apply to commercial debts.

5. In accordance with Local Rule 731(d), a Brief in Support is filed concurrently with this Motion.

6. For these reasons, this Court should grant this Motion to Dismiss and dismiss all claims against Defendant with prejudice.

Respectfully submitted,

**MARTIN GOLDEN LYONS
WATTS MORGAN PLLC**

/s/ Xerxes Martin

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***COUNSEL FOR DEFENDANT
RAB INC.***

CERTIFICATE OF CONFERENCE

This is to certify that moving counsel has complied with the Court's FRCP 12(b)(6) standing order, sending a written letter (e-mail) on January 23, 2024. On January 25, 2024, the undersigned counsel and counsel for Plaintiff conferred regarding the foregoing Motion. As of today, Plaintiff has not filed an amended pleading.

/s/ Xerxes Martin

EUGENE XERXES MARTIN, IV

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been forwarded via CM/ECF system to all parties entitled to notice of the same on this 1st day of February, 2024.

/s/ Xerxes Martin

EUGENE XERXES MARTIN, IV